

AGRICULTURAL EXEMPTION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends and enacts provisions related to agriculture and livestock.

Highlighted Provisions:

This bill:

- ▶ amends the duties of the state veterinarian;
- ▶ modifies definitions;
- ▶ enacts provisions related to certain animal enclosures and fences; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-2-402, as enacted by Laws of Utah 2014, Chapter 41

4-7-3, as last amended by Laws of Utah 2011, Chapter 383

4-32-3, as last amended by Laws of Utah 2011, Chapter 383

4-32-7, as last amended by Laws of Utah 2010, Chapters 242, 324, and 378

ENACTS:

4-26-104, Utah Code Annotated 1953



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-2-402** is amended to read:

4-2-402. State veterinarian responsibilities.

(1) The state veterinarian shall:

(a) ~~[direct]~~ coordinate the department's responsibilities for:

(i) the promotion of animal health;

(ii) the diagnosis, surveillance, and prevention of animal disease; and

~~[(iii) the inspection of meat and poultry; and]~~

~~[(iv)]~~ (iii) livestock brand registration and inspection; ~~[and]~~

(b) aid the meat inspection manager, whose duties are specified by the commissioner, in the direction of the inspection of meat and poultry; and

~~[(b)]~~ (c) perform other official duties assigned by the commissioner.

(2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.

(3) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section **4-7-3** is amended to read:

4-7-3. Definitions.

As used in this chapter:

(1) "Agent" or "broker" means a person who, on behalf of a dealer, purchaser, or livestock market, as defined in Section [4-30-1](#), solicits or negotiates the consignment or purchase of livestock.

(2) "Consignor" means a person who ships or delivers livestock to a dealer for handling or sale.

(3) (a) "Dealer" means a person who:

(i) receives livestock from a person for sale on commission; ~~[and]~~

(ii) is entrusted with the possession, management, control, or disposal of livestock for the account of that person~~[-]; and~~

(iii) negotiates price, determines a delivery date, and receives money on behalf of a livestock producer.

(b) "Dealer" includes a livestock dealer.

(c) "Dealer" includes a person who owns or leases a feedlot.

(4) (a) "Immediate resale" means the resale of livestock within 60 days of purchase.

(b) "Immediate resale" does not include the resale of livestock culled within 60 days that were purchased for feeding or replacement.

(5) "Livestock" means cattle, swine, equines, sheep, camelidae, ratites, bison, and domesticated elk as defined in Section 4-39-102.

(6) "Livestock dealer" means a person engaged in the business of purchasing livestock for immediate resale or interstate shipment for immediate resale.

(7) "Producer" means a person who is primarily engaged in the business of raising livestock for profit.

Section 3. Section 4-26-104 is enacted to read:

4-26-104. Fencing for bison.

Perimeter fencing intended to hold bison shall meet the following minimum standards:

(1) fence sections and gates shall:

(a) reach a height of at least ~~eight~~ six feet above ground level; and

(b) be constructed in a mesh pattern consisting of:

(i) hi-tensile steel wire of at least 14-1/2 gauge;

(ii) a maximum mesh size of six inches by six inches; or

(iii) a material with the strength equivalent of the material described in Subsections

(1)(b)(i) and (ii);

(2) fence posts shall:

(a) (i) be constructed of treated wood at least four inches in diameter; and

(ii) be constructed of a material with the strength equivalent of the material described in Subsection 2(a)(i);

(b) reach a height of at least ~~eight~~ six feet ~~eight~~ , two inches above ground level;

(c) have at least two feet of length below ground level;

(d) be installed at intervals of no more than 20 feet; and

(e) if located on a corner or connected to a gate, braced with wood or the strength equivalent of wood; and

(3) fence stays shall:

(a) be constructed of treated wood or steel;

(b) be installed at intervals of no more than 10 feet from any fence post; ~~and~~

(c) reach a height of at least ~~eight~~ six feet , two inches above

ground level ~~;~~ and

~~(d) have at least two feet of length below ground level.] .~~

Section 4. Section 4-32-3 is amended to read:

4-32-3. Definitions.

As used in this chapter:

(1) "Adulterated" means any meat or poultry product that:

(a) bears or contains any poisonous or deleterious substance that may render it injurious to health, but, if the substance is not an added substance, the meat or poultry product is not considered adulterated under this subsection if the quantity of the substance in or on the meat or poultry product does not ordinarily render it injurious to health;

(b) bears or contains, by reason of the administration of any substance to the animal or otherwise, any added poisonous or added deleterious substance that in the judgment of the commissioner makes the meat or poultry product unfit for human food;

(c) contains, in whole or in part, a raw agricultural commodity and that commodity bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C. Sec. 379e; provided, that a meat or poultry product that is not otherwise considered adulterated under Subsection (1)(c) or (d) of this section is considered adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in official establishments by federal law, regulation, or standard;

(f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) has been prepared, packaged, or held under unsanitary conditions if the meat or poultry product may have become contaminated with filth, or if it may have been rendered injurious to health;

(h) is in whole or in part the product of an animal that died other than by slaughter;

(i) is contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the meat or poultry product injurious to health;

(j) has been intentionally subjected to radiation, unless the use of the radiation conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

(k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or if damage or inferiority is concealed in any manner; or if any substance has been added, mixed, or packed with the meat or poultry product to increase its bulk or weight, or reduce its quality or strength, or to make it appear better or of greater value; or

(l) is margarine containing animal fat and any of the raw material used in the margarine consists in whole or in part of any filthy, putrid, or decomposed substance.

(2) "Animal" means a domesticated or captive mammalian or avian species.

(3) "Animal food manufacturer" means any person engaged in the business of preparing animal food derived from animal carcasses or parts or products of the carcasses.

(4) "Ante mortem inspection" means an inspection of a live animal immediately before slaughter.

(5) "Broker" means any person engaged in the business of buying and selling meat or poultry products other than for the person's own account.

(6) "Capable of use as human food" means any animal carcass, or part or product of a carcass, unless it is denatured or otherwise identified as required by rules of the department to deter its use as human food.

(7) "Commissioner" includes a person authorized by the commissioner to carry out this chapter's provisions.

(8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

(9) "Custom exempt processing" means processing meat or wild game as a service for the person who owns the meat or wild game and uses the meat and meat food products for the person's own consumption, including consumption by immediate family members and non-paying guests.

(10) "Custom exempt slaughter":

(a) means slaughtering an animal as a service for the person who owns the animal and uses the meat and meat products for the person's own consumption, including consumption by

152 immediate family members and non-paying guests; and

153 (b) includes farm custom slaughter.

154 ~~[(11) "Director of meat inspection" means a licensed graduate veterinarian whose~~
155 ~~duties and responsibilities are specified by the commissioner.]~~

156 ~~[(12)]~~ (11) "Diseased animal":

157 (a) means an animal that:

158 (i) is diagnosed with a disease not known to be cured; or

159 (ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

160 (b) does not include an otherwise healthy animal that suffers only from injuries such as
161 fractures, cuts, or bruises.

162 ~~[(14)]~~ (12) "Farm custom mobile unit" means a portable slaughter vehicle or trailer that
163 is used by a farm custom slaughter licensee to slaughter animals.

164 (13) "Farm custom slaughter" means custom exempt slaughtering of an animal for an
165 owner without inspection.

166 ~~[(15)]~~ (14) "Farm custom slaughter license" means a license issued by the department
167 to allow farm custom slaughter.

168 ~~[(16)]~~ (15) "Farm custom slaughter tag" means a tag that specifies the animal's
169 identification and certifies its ownership, which is issued by the department through a brand
170 inspector to the owner of the animal before it is slaughtered.

171 ~~[(17)]~~ (16) "Federal acts" means:

172 (a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

173 (b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; and

174 (c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq.

175 ~~[(18)]~~ (17) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved
176 June 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to it.

177 ~~[(19)]~~ (18) "Immediate container" means any consumer package, or any other container
178 in which meat or poultry products not consumer packaged, are packed.

179 ~~[(20)]~~ (19) "Inspector" means a licensed veterinarian or competent lay person working
180 under the supervision of a licensed graduate veterinarian.

181 ~~[(21)]~~ (20) "Label" means a display of printed or graphic matter upon any meat or
182 poultry product or the immediate container, not including package liners, of any such product.

183 ~~[(22)]~~ (21) "Labeling" means all labels and other printed or graphic matter:

184 (a) upon any meat or poultry product or any of its containers or wrappers; or

185 (b) accompanying a meat or poultry product.

186 ~~[(23)]~~ (22) "Licensee" means a person who holds a valid farm custom slaughter
187 license.

188 ~~[(24)]~~ (23) "Meat" means the edible muscle and other edible parts of an animal,
189 including edible:

190 (a) skeletal muscle;

191 (b) organs;

192 (c) muscle found in the tongue, diaphragm, heart, or esophagus; and

193 (d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is
194 not ordinarily removed in processing.

195 ~~[(25)]~~ (24) "Meat establishment" means a plant or fixed premises used to:

196 (a) slaughter animals for human consumption; or

197 (b) process meat or poultry products for human consumption.

198 ~~[(26)]~~ (25) "Meat product" means any product capable of use as human food that is
199 made wholly or in part from any meat or other part of the carcass of any non-avian animal.

200 ~~[(27)]~~ (26) "Misbranded" means any meat or poultry product that:

201 (a) bears a label that is false or misleading in any particular;

202 (b) is offered for sale under the name of another food;

203 (c) is an imitation of another food, unless the label bears, in type of uniform size and
204 prominence, the word "imitation" followed by the name of the food imitated;

205 (d) if its container is so made, formed, or filled as to be misleading;

206 (e) does not bear a label showing:

207 (i) the name and place of business of the manufacturer, packer, or distributor; and

208 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or
209 numerical count; provided, that under this Subsection ~~[(27)]~~ (26)(e), exemptions as to meat and
210 poultry products not in containers may be established by rules of the department and that under
211 this Subsection ~~[(27)]~~ (26)(e)(ii), reasonable variations may be permitted, and exemptions for
212 small packages may be established for meat or poultry products by rule of the department;

213 (f) does not bear any word, statement, or other information required by or under

authority of this chapter to appear on the label or other labeling is not prominently placed with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) is a food for which a definition and standard of identity or composition has been prescribed by rules of the department under Section 4-32-7 if the food does not conform to the definition and standard and the label does not bear the name of the food and any other information that is required by the rule;

(h) is a food for which a standard of fill has been prescribed by rule of the department for the container and the actual fill of the container falls below that prescribed unless its label bears, in a manner and form as the rule specifies, a statement that it falls below the standard;

(i) is a food for which no standard or definition of identity has been prescribed under Subsection ~~[(27)]~~ (26)(g) unless its label bears:

(i) the common or usual name of the food, if there be any; and

(ii) if it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the department, be designated as spices, flavorings, and colorings without naming each; provided, that to the extent that compliance with the requirements of this Subsection ~~[(27)]~~ (26)(i)(ii) is impracticable, or results in deception or unfair competition, exemptions shall be established by rule;

(j) is a food that purports to be or is represented to be for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the department, after consultation with the Secretary of Agriculture of the United States, prescribes by rules as necessary to inform purchasers as to its value for special dietary uses;

(k) bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this subsection are impracticable, exemptions shall be prescribed by rules of the department; or

(l) does not bear directly thereon and on its containers, as the department may prescribe by rule, the official inspection legend and establishment number of the official establishment where the product was prepared, and, unrestricted by any of the foregoing, other information as

the department may require by rule to assure that the meat or poultry product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain it in a wholesome condition.

~~[(28)]~~ (27) "Official certificate" means any certificate prescribed by rules of the department for issuance by an inspector or other person performing official functions under this chapter.

~~[(29)]~~ (28) "Official device" means any device prescribed or authorized by the commissioner for use in applying any official mark.

~~[(30)]~~ (29) "Official establishment" means any establishment at which inspection of the slaughter of animals or the preparation of meat or poultry products is maintained under the authority of this chapter.

~~[(31)]~~ (30) "Official inspection legend" means any symbol prescribed by rules of the department showing that a meat or poultry product was inspected and passed in accordance with this chapter.

~~[(32)]~~ (31) "Official mark" means the official legend or any other symbol prescribed by rules of the department to identify the status of any animal carcass or meat or poultry product under this chapter.

~~[(33)]~~ (32) "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity," have the same meanings for purposes of this chapter as ascribed to them in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

~~[(34)]~~ (33) "Post mortem inspection" means an inspection of a slaughtered food animal's carcass after slaughter.

~~[(35)]~~ (34) "Poultry" means any domesticated bird, whether living or dead.

~~[(36)]~~ (35) "Poultry product" means any product capable of use as human food that is made wholly or in part from any poultry carcass, excepting products that contain poultry ingredients in relatively small proportion or that historically have not been considered by consumers as products of the poultry food industry, and that are exempted from definition as a poultry product by the commissioner.

~~[(37)]~~ (36) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

~~[(38)]~~ (37) "Process" means to cut, grind, manufacture, compound, smoke, intermix, or

prepare meat or poultry products.

~~[(39)]~~ (38) "Renderer" means any person engaged in the business of rendering animal carcasses, or parts or products of animal carcasses, except rendering conducted under inspection or exemption under this chapter.

~~[(40)]~~ (39) "Slaughter" means:

- (a) the killing of an animal in a humane manner including skinning or dressing; or
- (b) the process of performing any of the specified acts in preparing an animal for human consumption.

~~[(41)]~~ (40) "Wild game" means an animal, the products of which are food that is not classified as a domesticated food animal, captive game animal, or captive game bird, including the following when not domesticated:

- (a) deer;
- (b) elk;
- (c) antelope;
- (d) moose;
- (e) bison;
- (f) bear;
- (g) rabbit;
- (h) squirrel;
- (i) raccoon; and
- (j) birds.

Section 5. Section 4-32-7 is amended to read:

4-32-7. Mandatory functions, powers, and duties of department prescribed.

The department shall make rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the following functions, powers, and duties, in addition to those specified in Chapter 1, Short Title and General Provisions, for the administration and enforcement of this chapter:

- (1) The department shall require antemortem and postmortem inspections, quarantine, segregation, and reinspections by inspectors appointed for those purposes with respect to the slaughter of animals and the preparation of meat and poultry products at official establishments, except as provided in Subsection 4-32-8(13).

(2) The department shall require that:

(a) animals be identified for inspection purposes;

(b) meat or poultry products, or their containers be marked or labeled as:

(i) "Utah Inspected and Passed" if, upon inspection, the products are found to be unadulterated; and

(ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be adulterated; and

(c) condemned animal carcasses or products, which otherwise would be used for human consumption, be destroyed under the supervision of an inspector.

(3) The department shall prohibit or limit meat products, poultry products, or other materials not prepared under inspection procedures provided in this chapter, from being brought into official establishments.

(4) The department shall require that labels and containers for meat and poultry products:

(a) bear all information required by Section [~~4-32-3~~] [4-32-13](#) if the product leaves the official establishment; and

(b) be approved before sale or transportation.

(5) For official establishments required to be inspected under Subsection (1), the department shall:

(a) prescribe sanitary standards;

(b) require sanitary inspections; and

(c) refuse to provide inspection service if the sanitary conditions allow adulteration of any meat or poultry product.

(6) (a) The department shall require that any person engaged in a business referred to in Subsection (6)(b):

(i) keep accurate records disclosing all pertinent business transactions;

(ii) allow inspection of the business premises at reasonable times and examination of inventory, records, and facilities; and

(iii) allow samples to be taken.

(b) Subsection (6)(a) applies to any person who:

(i) slaughters animals;

338 (ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any meat or
339 poultry products for human or animal consumption;

340 (iii) renders animals; or

341 (iv) buys, sells, or transports any dead, dying, disabled, or diseased animals, or parts of
342 their carcasses that died by a method other than slaughter.

343 (7) (a) The department shall:

344 (i) adopt by reference rules and regulations under federal acts with changes that the
345 commissioner considers appropriate to make the rules and regulations applicable to operations
346 and transactions subject to this chapter; and

347 (ii) promulgate any other rules considered necessary for the efficient execution of the
348 provisions of this chapter, including rules of practice providing an opportunity for hearing in
349 connection with the issuance of orders under Subsection (5) or under Subsection 4-32-8(1), (2),
350 or (3) and prescribing procedures for proceedings in these cases.

351 (b) These procedures do not preclude requiring that a label or container be withheld
352 from use, or inspection be refused under Subsections (1) and (5), or Subsection 4-32-8(3),
353 pending issuance of a final order in the proceeding.

354 (8) (a) To prevent the inhumane slaughtering of animals, inspectors shall be appointed
355 to examine and inspect methods of handling and slaughtering animals.

356 (b) Inspection of slaughtering establishments may be refused or temporarily suspended
357 if animals have been slaughtered or handled by any method not in accordance with the Humane
358 Methods of Slaughter Act of 1978, [~~Public Law~~] Pub. L. No. 95-445.

359 (c) Before slaughtering an animal in accordance with requirements of Kosher, Halal, or
360 a religious faith's requirements that discourage stunning of the animal, the person slaughtering
361 the animal shall file a written request with the commissioner.

362 (9) (a) The department shall require an animal showing symptoms of disease during
363 antemortem inspection, performed by an inspector appointed for that purpose, to be set apart
364 and slaughtered separately from other livestock and poultry.

365 (b) When slaughtered, the carcasses of livestock and poultry are subject to careful
366 examination and inspection in accordance with rules prescribed by the commissioner.

Legislative Review Note
Office of Legislative Research and General Counsel